B104 (FORM 104) (08/07)

ADVERSARY PROCEEDING COVER SHEET (Instructions on Reverse)	ADVERSARY PROCEEDING NUMBER (Court Use Only)
PLAINTIFFS Elena Shamkovich	**DEFENDANTS** Sallie Mae/Navient/Dept. of Education Loan Servicing
ATTORNEYS (Firm Name, Address, and Telephone No.) pro se	**ATTORNEYS** (If Known)
PARTY (Check One Box Only) ☑ Debtor ☐ U.S. Trustee/Bankruptcy Admin ☐ Creditor ☐ Other ☐ Trustee	**PARTY** (Check One Box Only) ☐ Debtor ☐ U.S. Trustee/Bankruptcy Admin ☑ Creditor ☐ Other ☐ Trustee

CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED)

discharge of student loan debt due to undue hardship 523(a)(8)

NATURE OF SUIT

(Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)

FRBP 7001(1) – Recovery of Money/Property
- ☐ 11-Recovery of money/property - §542 turnover of property
- ☐ 12-Recovery of money/property - §547 preference
- ☐ 13-Recovery of money/property - §548 fraudulent transfer
- ☐ 14-Recovery of money/property - other

FRBP 7001(2) – Validity, Priority or Extent of Lien
- ☐ 21-Validity, priority or extent of lien or other interest in property

FRBP 7001(3) – Approval of Sale of Property
- ☐ 31-Approval of sale of property of estate and of a co-owner - §363(h)

FRBP 7001(4) – Objection/Revocation of Discharge
- ☐ 41-Objection / revocation of discharge - §727(c),(d),(e)

FRBP 7001(5) – Revocation of Confirmation
- ☐ 51-Revocation of confirmation

FRBP 7001(6) – Dischargeability
- ☐ 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims
- ☐ 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud
- ☐ 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny

(continued next column)

FRBP 7001(6) – Dischargeability (continued)
- ☐ 61-Dischargeability - §523(a)(5), domestic support
- ☐ 68-Dischargeability - §523(a)(6), willful and malicious injury
- ☑ 63-Dischargeability - §523(a)(8), student loan
- ☐ 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support)
- ☐ 65-Dischargeability - other

FRBP 7001(7) – Injunctive Relief
- ☐ 71-Injunctive relief – imposition of stay
- ☐ 72-Injunctive relief – other

FRBP 7001(8) Subordination of Claim or Interest
- ☐ 81-Subordination of claim or interest

FRBP 7001(9) Declaratory Judgment
- ☐ 91-Declaratory judgment

FRBP 7001(10) Determination of Removed Action
- ☐ 01-Determination of removed claim or cause

Other
- ☐ SS-SIPA Case – 15 U.S.C. §§78aaa *et.seq.*
- ☐ 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)

FILED U.S. BANKRUPTCY COURT 2014 OCT -8 P 12:34

☐ Check if this case involves a substantive issue of state law	☐ Check if this is asserted to be a class action under FRCP 23
☐ Check if a jury trial is demanded in complaint	Demand $ 37,585.00 (as of 6/2014)

Other Relief Sought

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BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR Elena Shamkovich	BANKRUPTCY CASE NO. 14-23360-rdd	
DISTRICT IN WHICH CASE IS PENDING Southern District of NY	DIVISION OFFICE	NAME OF JUDGE
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.
DISTRICT IN WHICH ADVERSARY IS PENDING	DIVISION OFFICE	NAME OF JUDGE
SIGNATURE OF ATTORNEY (OR PLAINTIFF) [signature]		
DATE 10.6.14	PRINT NAME OF ATTORNEY (OR PLAINTIFF) Elena Shamkovich	

INSTRUCTIONS

The filing of a bankruptcy case creates an "estate" under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor's discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also must complete and file Form 104, the Adversary Proceeding Cover Sheet, unless the party files the adversary proceeding electronically through the court's Case Management/Electronic Case Filing system (CM/ECF). (CM/ECF captures the information on Form 104 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

Plaintiffs and **Defendants.** Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

Attorneys. Give the names and addresses of the attorneys, if known.

Party. Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

Demand. Enter the dollar amount being demanded in the complaint.

Signature. This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not represented by an attorney, the plaintiff must sign.

9/2/14

Re: Elena Shamkovich

FILED
U.S. BANKRUPTCY COURT
S.D. OF N.Y.
2014 SEP 25 P 12: 22

To Whom It May Concern,

Although I realize this is rarely done, I am respectfully asking the court to consider discharging my student loan debt. I am hoping that you can review the below circumstances that make it impossible for me to repay this debt.

I currently owe $37,982.89 in student loan debt, held by Sallie Mae. Although my consolidation date is 6/2002, this debt originated at some point between 1994-1998, which is when I attended college at age 18. Out of this total amount, $21,170.38 is the amount I originally consolidated in 2002. The rest is interest.

I have been in forbearance/deferment for many years, but since Sallie Mae took over the debt, I am no longer eligible for any deferments. I have reviewed all of my payment options with them, and the lowest payment that they would offer me is approximately $123.00 a month. As outlined in my income and expense report for this bankruptcy, I basically survive paycheck to paycheck. Even the $123.00 a month is too much for me to afford, as sometimes that amount is the only cash I have left after paying rent, electric etc., and that has to last me two weeks.

My 12 year old son has Cerebral Palsy, and can only walk with the aid of a walker. He uses a wheelchair for moderate to long distances. In addition to the physical disability, he also struggles with global developmental, social and behavioral delays. He also struggles with staying continent (mostly due to the difficulty in ambulating himself in time to the bathroom). He is not a small boy, weighing in at 100 pounds. I mention all these things, as it for these reasons that is excruciatingly difficult for me to find day care for him. He goes to school during the day, and is able to attend an after school program till 6pm. Other than that, I have very limited options. Family members are able to help me out occasionally, but not on any regular basis. It is too physically demanding with the lifting that is involved, as well the constant state of alertness and level of care that is required. This is also why I am reaffirming my auto loan as I cannot survive without my van. I need to be able transport Evan's wheelchair and walker, and this would not be safe, or possible, with public transportation or a cab in the area where we live.

The above basically precludes me from working a second job or working a higher paying job in NYC or Westchester as I can only work in a certain radius. I am the only one who can pick him up in an emergency, or if he is not feeling well. This happens frequently enough, and the emergency room staff knows us well!

I am trying to go to school for Nursing, so that I can eventually earn more than I do now. My current GPA is 3.878. However, I can only attend one class at a time for all the same reasons as I mentioned above. I have had to withdraw twice. Ironically, if my student loans default, I will not qualify for FAFSA, which will most likely make it unable for me to continue the program.

I am currently in the process of divorcing my husband, from whom I am physically separated. He provides no financial support, and there is little hope of that changing anytime soon. He has multiple documented psychiatric and addiction issues with which he struggles, leaving me to basically raise my son alone. This has been the case for most of my son's life.

In summary, there is just no way that I can hope to ever repay these student loans with my current circumstances. As my son is only 12, my circumstances will not change for a very long time. My son will rely on me for many more years, as he will not be able to achieve independent living as would a normal child at the age of 18. I am truly saddened by the prospect of not being able to attend Nursing School anymore if I no longer qualify for FAFSA, as it is my only hope of ever having a higher paying career.

Thank you for your consideration.

Elena Shamkovich